

HOUSE BILL 2532
By Curtiss

AN ACT to amend Tennessee Code Annotated, Section 2-12-109
and Section 2-12-209, relative to county election
commissions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 2-12-109, is amended by deleting
subsection (a) in its entirety and substituting instead the following:

(a) Except as otherwise provided by law, it is the responsibility of the county to
fund the operations of its election commission. The election commission shall be
considered an office of the county.

SECTION 2. Tennessee Code Annotated, Section 2-12-109, is amended by adding the
following language as a new subsection (b) and designating the existing subdivisions
accordingly:

(b) If a county fails to appropriate funds sufficient to pay expenses that are
necessary for the discharge of the statutorily mandated duties of its county election
commission, such commission may pursue a remedy according to the following
procedure:

(1) If a county election commission is of the opinion that the county
legislative body has not appropriated sufficient funds for its budget, it shall, by
petitioning the state election coordinator, have the right to a hearing on such
matter before an administrative law judge in the office of the secretary of state.

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(2) Within ten (10) days of receiving such petition, the state election coordinator shall set a hearing date, which date shall be within thirty (30) days of receiving the petition. The county executive and county election commission shall be notified of the time, place and date of the hearing by registered mail, return receipt requested, at least ten (10) days prior to such hearing.

(3) The hearing shall be held before an administrative law judge from the office of the secretary of state. None of the parties involved in the hearing shall be required to have an attorney present.

(4) The county election commission shall have the burden of demonstrating, by a preponderance of the evidence, that it has not been appropriated sufficient funds to pay expenses that are necessary for the discharge of the statutorily mandated duties of the office. The judge shall examine all evidence produced at the hearing, and may make comparisons to the total appropriations made to the election commission of such county in previous comparable election or non-election years. In making such comparisons, the judge shall exclude capital outlay expenditures or other non-recurring expenses from previous budgets.

(5) Upon the conclusion of the hearing, the judge shall determine whether the county election commission has demonstrated that the county has failed to appropriate sufficient funds to discharge the statutorily mandated duties of the office. If the judge determines that the total amount appropriated to the county election commission is insufficient, and such county is receiving state payments pursuant to Section 2-12-209, the judge shall so certify to the state official responsible for authorizing such payments. Upon receiving certification from the judge pursuant to this subdivision, such state official shall cease

authorization of payment to such county effective the quarter next following the one in which such certification is received.

(6) In addition to the remedy set out in subdivision (5), the county election commission shall also be authorized to seek a writ of mandamus to compel the county legislative body to comply with the provisions of this section.

(7) After a hearing before an administrative law judge pursuant to this section, either party may appeal the ruling to the chancery court of the county.

SECTION 3. Tennessee Code Annotated, Section 2-12-209, is amended by deleting subsection (c) in its entirety.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.